

183048

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2006-352-S

SC PUBLIC SERVICE  
COMMISSION

2007 JAN 12 AM 10:25

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IN RE: Petition of Quail Hollow Utilities, ) DIRECT TESTIMONY AND  
Inc. For Approval Of The ) EXHIBITS OF  
Transfer Of Its Sewer System ) WILLIAM EDWARD BILLINGS  
To The City Of West Columbia ) ON BEHALF OF PETITIONER

1 Q. PLEASE STATE YOUR NAME AND ADDRESS.

2 A. My name is William Edward Billings, and my business address is 1022 Calhoun Street,  
3 Second Floor, in Columbia, South Carolina 29201.

4 Q. ON WHOSE BEHALF ARE YOU TESTIFYING?

5 A. I am testifying on behalf of Petitioner Quail Hollow Utilities, Inc. ("Quail, Inc.") Robert  
6 R. Russell, Jr. ("Mr. Russell") is the President and sole shareholder of Quail, Inc. and is also  
7 Chairman of the Board of Russell & Jeffcoat Realtors, Inc., located in Columbia, South  
8 Carolina.

9 Q. IN WHAT CAPACITY ARE YOU TESTIFYING?

10 A. I am the Chief Financial Officer for Russell & Jeffcoat Realtors, Inc. and have worked  
11 there for thirty-six years. As part of my responsibilities, I oversee the financial aspects and  
12 daily operations of Quail, Inc., which has its office with Russell & Jeffcoat Realtors at 1022  
13 Calhoun Street, Second Floor, in Columbia, South Carolina 29201. Prior to working there, I  
14 was employed by the United States Treasury Department as a field agent for the Internal  
15 Revenue Service ("IRS").

RETURN DATE:  
SERVICE:

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OK D. Duke

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. The purpose of my testimony is to support the Petition filed in this matter to initiate this Docket and the Settlement Agreement submitted herein. I am also sponsoring as **Billings' Exhibit "1"**, the Settlement Agreement entered into by Mr. Russell, Quail, Inc., and the City in their pending litigation in Lexington County, bearing Civil Action No. 2002-CP-32-1873. I am also sponsoring as **Billings' Exhibit "2"**, the correspondence we received from the South Carolina Office of Regulatory Staff ("ORS") relating to the proposed transfer, which we previously filed with this Commission in support of our "Motion To Consider Petition On Expedited Basis And/Or Expedite Formal, Contested Hearing."

**Q. PLEASE PROVIDE AN OVERVIEW OF THE PETITION FOR THE COMMISSION.**

A. I will discuss the Petition by Paragraph.

**Paragraphs 1 through 4** of the Petition provide preliminary information about Quail, Inc., its attorneys herein, and the City. Paragraph 4 illustrates that Quail, Inc. provides collection-only sewer service to residents of Quail Hollow Subdivision in Lexington County in accordance with rates established by this Commission.

**Paragraph 5** of the Petition clarifies that the City already provides water service to these residents in the Quail Hollow Subdivision and sewer service in its City limits, the immediate vicinity around the Quail Hollow Subdivision, and elsewhere outside the City limits in Lexington County. This Paragraph also shows the current sewer rate for of a flat rate per single family residence of \$21.50/month for Quail, Inc. customers and \$13.85/month for up to six thousand gallons and \$1.75 for each additional one thousand gallons, based on metered water consumption, for City out of town residential and commercial sewer

customers. Based on discovery obtained from the City in the litigation referenced above, most of Quail, Inc.'s sewer customers use less than the six thousand gallon minimum. The City sets its water and sewer rates by ordinance.

**Paragraph 6** references and incorporates into the Petition, the Settlement Agreement referenced above. This Settlement Agreement was the result of over four years of disagreement among the parties in the current litigation and over several years and court cases prior to the current court case. The gist of the Settlement Agreement is that Quail, Inc. agreed to convey its system and assign its easements to the City and further agreed to provide additional settlement funds, and the City agreed to accept the system—all of which is conditioned upon approval by this Commission of the transfer Petition.

**Paragraphs 7 and 8** reference Quail, Inc.'s provision of proper notices, including notice to the South Carolina Department of Health and Environmental Control (DHEC) and ORS, and compliance with the Commission's filing requirements for its Petition. Quail, Inc. provided proper notices and complied with the Commission's filing and related requirements herein.

**Paragraphs 9 through 11** reference the target date of December 31, 2006, for completion of the transfer of the Sewer System, the handling of customer accounts in accordance with the Commission's regulations, and Quail, Inc.'s statement that approval of its Petition is in the public interest. Our position is further supported by ORS's correspondence in **Billings' Exhibit "2"**, the absence of any remaining formal Intervenor in this matter, and the fact that only fourteen out of over five hundred seventy of Quail, Inc.'s customers initially sought a public hearing of any kind.

61 **Q. PLEASE SUMMARIZE QUAIL, INC.'S CONCLUSIONS IN SUPPORT OF**  
62 **APPROVAL OF ITS PETITION.**

63 A. Quail, Inc. appreciates the Commission's consideration of its Petition, Exhibits and  
64 Motion and urges the Commission to approve the transfer as requested. As stated above,  
65 Quail, Inc. provides collection-only sewer service. Quail, Inc. reiterates that the City already  
66 provides the customers of Quail, Inc. water service and also provides other customers in the  
67 immediate vicinity both water and sewer service. The transfer of the Sewer System will be  
68 carried out, in accordance with and subject to, the regulations of this Commission and after  
69 proper notice.

70 **Q. BY WAY OF YOUR TESTIMONY, ARE YOU ASKING THE COMMISSION TO**  
71 **APPROVE QUAIL, INC.'S PETITION.**

72 A. Based upon the foregoing, it is in the public interest that this Commission approve the  
73 proposed transfer of the Sewer System, as described in Quail, Inc.'s Petition.

74 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

75 A. Yes.

**CERTIFICATE OF SERVICE**

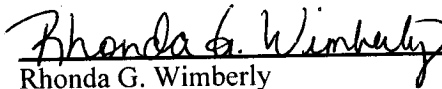
I, Rhonda G. Wimberly, an employee of Austin, Lewis & Rogers, P.A., hereby certify that I caused electronic copies of Quail, Inc.'s Testimony of William Edward Billings, PSC Docket No. 2006-352-S, to be electronically mailed on this date to each individual, as shown below:

Nanette S. Edwards, Esquire  
Dawn Hipp  
South Carolina Office of Regulatory Staff  
1441 Main Street, Suite 300  
Columbia, SC 29201  
[nsedwar@regstaff.sc.gov](mailto:nsedwar@regstaff.sc.gov) (Email)  
[Dhipp@regstaff.sc.gov](mailto:Dhipp@regstaff.sc.gov) (Email)

Joseph M. Melchers, Esquire  
Jocelyn Boyd, Esquire  
Public Service Commission of South Carolina  
101 Executive Center Drive  
Saluda Building, Suite 100  
Columbia, SC 29210-8411  
[joseph.melchers@psc.sc.gov](mailto:joseph.melchers@psc.sc.gov) (Email)  
[jocelyn.boyd@psc.state.sc.us](mailto:jocelyn.boyd@psc.state.sc.us) (Email)

Jennifer Cunningham, Administrator  
City of West Columbia  
200 North 12th Street  
West Columbia, SC 29169  
[jcunningham@westcolumbiasc.gov](mailto:jcunningham@westcolumbiasc.gov) (Email)

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2007 JAN 12 AM 10:24  
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Rhonda G. Wimberly

January 11, 2007

**THIS DOCUMENT IS AN EXACT DUPLICATE, WITH THE EXCEPTION OF THE FORM OF THE SIGNATURE, OF THE E-FILED COPY SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS.**

**COPY**

Exhibit 1

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT  
CIVIL ACTION NO. 2002-CP-32-1873

City of West Columbia,

Plaintiff,

vs.

Quail Hollow Utilities, Inc., Robert R.  
Russell, Jr., and SCANA Development  
Corporation,

Defendants.

SETTLEMENT AGREEMENT

RECEIVED  
2007 JAN 27 AM 10:24  
CLERK OF COURT  
LEXINGTON SC  
COMM. DIV. 1-15

This Settlement Agreement is made and entered into this 8<sup>th</sup> day of November, 2006, by and among the City of West Columbia, Robert R. Russell, Jr., and Quail Hollow Utilities, Inc.

WHEREAS, There is now pending in the Court of Common Pleas for the Eleventh Judicial Circuit, Civil Action No. 2002-CP-32-1873, asserting various claims by the City of West Columbia against the Defendants, Robert R. Russell, Jr., and Quail Hollow Utilities, Inc. Robert R. Russell, Jr., and Quail Hollow Utilities, Inc., have also asserted various counterclaims and defenses to the claims asserted by the City of West Columbia. The Defendant, SCANA Development Corporation, has been dismissed from this action pursuant to Summary Judgment, and no appeal has been taken therefrom.

WHEREAS, all claims and counterclaims involved in this matter arise from the operation of the Quail Hollow Sewer System and services provided thereto by the City of West Columbia and the City's claim for delinquent payment for services rendered.

WHEREAS, the City of West Columbia, Robert R. Russell, Jr., and Quail Hollow Utilities, Inc., now desire to fully and finally settle all claims and counterclaims as alleged and asserted in the above-referenced civil action.

NOW THEREFORE, in consideration of the covenants and conditions set forth below and the payment to the City of West Columbia of One Hundred Thirty-eight Thousand and No/100 (\$138,000.00) Dollars by Quail Hollow Utilities, Inc., the receipt and sufficiency of which is acknowledged, the parties hereto agree to the following terms and conditions:

1. Robert R. Russell, Jr., is to pay to the City of West Columbia, Seven Thousand and No/100 (\$7,000.00) Dollars per month beginning October 2006 and every month thereafter until the Quail Hollow Sewer System is transferred to the City of West Columbia, as anticipated herein and upon approval of the South Carolina Public Service Commission of such transfer, thereafter allowing the City of West Columbia to bill directly the users of the Quail Hollow Sewer System based upon City Ordinance.

2. Robert R. Russell, Jr., and Quail Hollow Utilities, Inc., agree to provide the City of West Columbia with all information regarding upgrades, repairs, improvements, and/or engineering studies undertaken since the engineering study conducted by Power Engineering Company, Inc., in May 2002.

3. Quail Hollow Utilities, Inc., will transfer all infrastructure of the Quail Hollow Sewer System, which includes "as built" collection lines with all appurtenant easements and two (2) lift stations.

The Quail Hollow Sewer System shall be transferred free and clear of all liens and encumbrances.

4. Robert R. Russell, Jr., will transfer all rights pertaining to the Quail Hollow Sewer System including, but not limited to, any rights arising from the 1985 and the 1993 Agreements between the City of West Columbia and Quail Hollow Company, a South Carolina Partnership and Robert R. Russell, Jr.

5. Robert R. Russell, Jr., and Quail Hollow Utilities, Inc., shall be responsible for any violations, fines, or liabilities of any nature imposed, or to be imposed, for any activities or wrongful conduct related to the Quail Hollow Sewer System prior to the effective date of the transfer of the Quail Hollow Sewer System.

6. Upon completion of the payment of monies, as set forth herein and the terms and conditions as set forth herein, the above-captioned civil action shall be dismissed with prejudice; each party to be responsible for his/its own attorney's fees and costs.

7. This Settlement Agreement is conditioned upon the regulatory approval of all government agencies having jurisdiction of the subject-matter stated herein.

8. Robert R. Russell, Jr., and Quail Hollow Utilities, Inc., and the City of West Columbia agree to cooperate and execute any reasonable and necessary documentation



for the purpose of effecting this Settlement Agreement and the transfer of the Quail Hollow Sewer System as contemplated herein. This is to include, but is not limited to, the execution of all deeds, right-of-way documents, easements and/or permits necessary for the operation of the Quail Hollow Sewer System.

9. After the transfer of the Quail Hollow Sewer System, the City of West Columbia will bill directly the residents of the Quail Hollow Subdivision and any other user of the Quail Hollow Sewer System for services rendered. In the event the South Carolina Public Service Commission, or any governmental entity with subject-matter jurisdiction, prevents this method of billing, the obligation of the City of West Columbia to accept the Quail Hollow Sewer System will be null and void.

10. The parties agree to cooperate to accomplish the transfer of the Quail Hollow Sewer System to the City of West Columbia, and all rights pertaining thereto, no later than December 31, 2006.

11. Robert R. Russell, Jr., and Quail Hollow Utilities, Inc., represent and warrant that there are no contracts, agreements, or covenants with the users of the Quail Hollow Sewer System limiting or restricting the amount to be paid for waste water treatment services to be provided by the operator of the Quail Hollow Sewer System.

12. This Agreement is binding on the personal representatives, successors and assigns of the parties hereto.

13. Quail Hollow Utilities, Inc., warrants it has good and marketable title to all rights-of-ways and components of the Quail Hollow Sewer System, free and clear of any encumbrances.

THIS AGREEMENT is the result of a compromise of disputed claims and is not to be interpreted, construed as, or used as evidence of an admission of any liability or a waiver of any rights or defenses on the part of the parties, and the parties hereto each expressly deny any such liability to the other.

The terms and provisions of this Agreement are intended solely for the benefit of the parties to this Agreement. The parties do not intend to confer, and this Agreement shall not be construed to confer, third-party beneficiary rights upon any person or entity not a party hereto nor do the parties intend to prejudice the rights of any person or entity not a party hereto.

This Agreement contains the entire and integrated Agreement of the parties related to the subject-matter contained herein and supercede all prior collateral or oral or written agreements, understanding, statements, and negotiations of the parties. Each of the parties acknowledge that no representation, inducement, promise or agreement, oral or written, with reference to the subject-matter hereof have been made other than those expressly set forth herein. This Agreement cannot be modified, rescinded, or terminated except by express written consent.

This Agreement is the result of review, negotiation, and compromise in drafting by the parties and shall not be construed or resolved against any party by reason of any

conclusion that the Agreement or any part of it has been drafted by that party of the parties.

The parties acknowledge that this Agreement constitutes a settlement of a contested dispute and controversies among the parties.

This Agreement shall not be admissible in any subsequent proceeding or action, except as may be necessary to obtain approval of the transfer by the Public Service Commission and/or other governmental authorities, dismiss the pending civil action, and/or enforce the terms of this Agreement.

In consideration for compliance with the terms and conditions as set forth herein, the parties agree to a dismissal with prejudice of Civil Action No. 2002-CP-32-1873.

The terms and conditions of this Agreement constitute a binding contract between the parties which shall be enforceable, non-jury, in the Court of Common Pleas for the Eleventh Judicial Circuit, County of Lexington, State of South Carolina.

Each party represents that the undersigned, executing on behalf of each party as identified herein, is duly authorized and has the capacity to execute this Agreement on behalf of the settling party.

WITNESSES:

W. S. [Signature]  
Glenda D. Derrick

CITY OF WEST COLUMBIA

[Signature]

BY: Bobby E. Horton  
Mayor of City of West Columbia

WITNESSES:

W. S. [Signature]  
Glenda D. Derrick

Robert R. Russell, Jr.  
Robert R. Russell, Jr.

WITNESSES:

W. S. [Signature]  
Glenda D. Derrick

QUAIL HOLLOW UTILITIES, INC.

BY: Robert R. Russell, Jr.  
Its: President

C. DUKES SCOTT  
EXECUTIVE DIRECTOR

P.O. Box 11263  
Columbia, S.C. 29211



Phone: (803) 737-0800  
Fax: (803) 737-0801

DAN E. ARNETT  
CHIEF OF STAFF

December 13, 2006

**VIA EMAIL AND  
U.S. MAIL**

Mr. Ben Mabry  
1225 Pickens Street  
Columbia SC 29201

Ms. Joy Upchurch  
President, QHVHA  
204 Black Hawk Terrace  
W. Columbia, SC 29169

Shirley Hollingsworth  
2600 Bull Street  
Columbia SC 29201

RE: ORS Letter Concerning Status of Quail Hollow Utilities, Inc.  
Docket No. 2006-352-S

Dear Mr. Mabry, Ms. Upchurch and Ms. Hollingsworth:

The purpose of this letter is to set forth the current status of Quail Hollow Utilities, Inc., ("QHU") and to respond to your inquiries and those present at the home owner associations' meeting of December 6, 2006.

The South Carolina Office of Regulatory Staff ("ORS") conducts investigations and on-site reviews of regulated water/wastewater utilities. As of the date of this letter, ORS does not have any current actions pending against QHU and ORS is not aware of any failure by QHU to comply with Commission rules and regulations.

At the December 6<sup>th</sup> meeting, members of the home owners associations inquired as to whether the performance bond posted by QHU may be used to offset the cost of any upgrades performed by the City of West Columbia after the transfer has been approved by the South Carolina Public Service Commission. S.C. Code Ann. § 58-5-720 (Supp. 2005), provides that the Commission "has the right, upon notice and hearing, to declare

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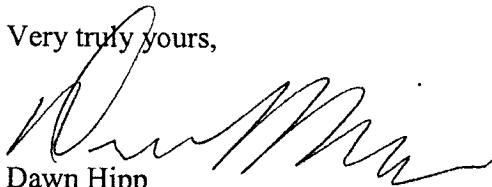
December 13, 2006  
Page 2

all or any part of the bond... forfeited upon a determination by the Commission that the utility failed to provide service without just cause or excuse and that this failure has continued for an unreasonable length of time." QHU has not been found by the Commission to have failed to provide adequate service.

ORS appreciated the opportunity to meet with you and the home owners regarding the issues surrounding the proposed transfer of QHU to the City of West Columbia.

Should you have any questions or require additional information, please contact myself or Nanette Edwards at (803) 737-0800.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dawn Hipp', written over a horizontal line.

Dawn Hipp  
Program Manager

cc: leonan7777@BellSouth.net  
Dawn Hipp  
Florence Belser, General Counsel, ORS